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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,045	11/17/2003	Benjamin T. Metzler	42P18002	4278

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EXAMINER	
PHUONG, DAI	
ART UNIT	PAPER NUMBER
2617	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/716,045	METZLER, BENJAMIN T.	
	Examiner	Art Unit	
	Dai A. Phuong	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 November 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-32* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-32* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *17 November 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. Claims 22-29 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 22-29 lack the proper preamble necessary for a statutory computer program product claim. See MPEP 2100 for guidance on computer related inventions.

The Examiner suggests a preamble as follows:

1. "computer readable medium" encoded with _____
[a] "a computer program"
[b] "software"
[c] "computer executable instructions"
[d] "instructions capable of being executed by a computer"

2. "a computer readable medium" _____ "computer program"
[a] storing a
[b] embodied with a
[c] encoded with a
[d] having a stored
[e] having an encoded

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 19 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Kohno (Pub. No: 20050182850).

Regarding claim1, Kohno discloses a method comprising: measuring cumulative mesh network viability based upon packet loss information calculated from packets transmitted from at least one of a plurality of nodes (fig. 4 and fig. 9, [0088] to [0112]).

Regarding claim 19, this claim is rejected for the same reason as set forth in claim 1.

Regarding claim 22, this claim is rejected for the same reason as set forth in claim 1.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 2 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohno (Pub. No: 20050182850) in view of Nakanishi et al. (Pub. No: 20050111422).

Regarding claim 2, Kohno discloses all the limitations in claim 1. However, Kohno does not disclose wherein the wireless network is an ad hoc wireless network.

In the same field of endeavor, Nakanishi et al. disclose wherein the wireless network is an ad hoc wireless network ([0091]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the user terminal of Kohno by specifically including disclose wherein the wireless network is an ad hoc wireless network, as taught by Nakanishi et al., the motivation being in order to prevent loss of packets in multimedia communication.

Regarding claim 23, this claim is rejected for the same reason as set forth in claim 2.

6. Claims 3-6, 9-12, 14-18, 20-21 and 24-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohno (Pub. No: 20050182850) in view of Lau et al. (Pub. No: 20050041584).

Regarding claim 3, Kohno discloses all the limitations in claim 1. However, Kohno does not disclose the method further comprising storing the packet loss information at the at least one server.

In the same field of endeavor, Lau et al. disclose the method further comprising storing the packet loss information at the at least one server ([0102]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the user terminal of Kohno by specifically including the method further comprising storing the packet loss information at the at least one server, as taught by Lau et al., the motivation being in order to enable efficient use of existing wireless networks for transmission of voice and data services.

Regarding claim 4, the combination of Kohno and Lau et al. disclose all the limitation in claim 3. Further, Kohno discloses the method wherein said storing the packet loss information comprises network protocol processing a received packet upon receipt of the received packet at the at least one server (fig. 4 and fig. 9, [0088] to [0112]).

Regarding claim 5, the combination of Kohno and Lau et al. disclose all the limitation in claim 3. Further, Kohno discloses the method wherein said storing the received packet at the at

least one server comprises processing the received packet at a time period subsequent to the arrival of the received packet at the server (fig. 4 and fig. 9, [0088] to [0112]).

Regarding claim 6, the combination of Kohno and Lau et al. disclose all the limitation in claim 3. Further, Lau et al. disclose the method wherein said storing the received packet at the at least one server comprises associating an identifier with the received packet prior to processing the received packet ([0102]).

Regarding claim 9, Kohno discloses a wireless network comprising:

a plurality of nodes configured to at least transmit packets in the wireless network (fig. 4 and fig. 9, [0088] to [0112]);

at least one server operably configured to calculate packet loss information in the wireless network during packet transmission from at least one of the plurality of nodes in the wireless network such that overall mesh network viability of the wireless network is measured in the wireless network (fig. 4 and fig. 9, [0088] to [0112]). However, Kohno does not disclose a store for storing the packet loss information.

In the same field of endeavor, Lau et al. disclose a store for storing the packet loss information ([0102]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the user terminal of Kohno by specifically including a store for storing the packet loss information, as taught by Lau et al., the motivation being in order to enable efficient use of existing wireless networks for transmission of voice and data services.

Regarding claim 10, this claim is rejected for the same reason as set forth in claim 3.

Regarding claim 11, the combination of Kohno and Lau et al. disclose all the limitation in claim 9. Further, Lau et al. disclose the wireless network wherein the store for storing the packet loss information is operably configured for access at a future period of time ([0102]).

Regarding claim 12, the combination of Kohno and Lau et al. disclose all the limitation in claim 9. Further, Lau et al. disclose the wireless network wherein the store for storing the packet loss information is operably configured for processing out-of-order packets ([0102]).

Regarding claim 14, this claim is rejected for the same reason as set forth in claim 9.

Regarding claim 15, this claim is rejected for the same reason as set forth in claim 3.

Regarding claim 16, this claim is rejected for the same reason as set forth in claim 11.

Regarding claim 17, this claim is rejected for the same reason as set forth in claim 12.

Regarding claim 18, this claim is rejected for the same reason as set forth in claim 8.

Regarding claim 20, this claim is rejected for the same reason as set forth in claim 3.

Regarding claim 21, this claim is rejected for the same reason as set forth in claim 12.

Regarding claim 24, this claim is rejected for the same reason as set forth in claim 11.

Regarding claim 25, this claim is rejected for the same reason as set forth in claim 4.

Regarding claim 26, this claim is rejected for the same reason as set forth in claim 5.

Regarding claim 27, this claim is rejected for the same reason as set forth in claim 6.

Regarding claim 28, this claim is rejected for the same reason as set forth in claim 7.

Regarding claim 29, this claim is rejected for the same reason as set forth in claim 8.

Regarding claim 30, Kohno discloses a system comprising: a plurality of nodes configured to at least transmit packets in a wireless network (fig. 4 and fig. 9, [0088] to [0112]); at least one server operably configured to calculate packet loss information in the wireless network during packet transmission from at least one of the plurality of nodes such that overall mesh network viability of the wireless network is measured in the wireless network, the at least one server having an ethernet adapter 64 for wired communications 2 (fig. 4 and fig. 9, [0088] to [0112]). However, Kohno does not disclose a store for storing the packet loss information.

In the same field of endeavor, Lau et al. disclose a store for storing the packet loss information ([0102]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the user terminal of Kohno by specifically including a store for storing the packet loss information, as taught by Lau et al., the motivation being in order to enable efficient use of existing wireless networks for transmission of voice and data services.

Regarding claim 31, this claim is rejected for the same reason as set forth in claim 2.

Regarding claim 32, this claim is rejected for the same reason as set forth in claim 11.

7. Claims 7-8 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohno (Pub. No: 20050182850) in view of Lau et al. (Pub. No: 20050041584) and further in view of Siminoff (Pub. No: 20050100049)

Regarding claim 7, the combination of Kohno and Lau et al. disclose all the limitation in claim 3. However, the combination of Kohno and Lau et al. do not disclose the method wherein said storing the received packet at the at least one server further comprises comparing the packet with a plurality of previously received packets to determine whether a duplicate packet had been transmitted.

In the same field of endeavor, Siminoff discloses the method wherein said storing the received packet at the at least one server further comprises comparing the packet with a plurality of previously received packets to determine whether a duplicate packet had been transmitted ([0021]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the user terminal of Kohno by specifically including disclose the method wherein said storing the received packet at the at least one server further comprises comparing the packet with a plurality of previously received packets to determine whether a duplicate packet had been transmitted, as taught by Siminoff, the motivation being in order to send multiple call streams of the same call through different networks or the same network in order to have an inventory of duplicate packets, thus providing an added layer of quality control by routing the call through separate environments.

Regarding claim 8, the combination of Kohno and Lau et al. and Siminoff disclose all the limitation in claim 7. Further, Siminoff discloses the method wherein the at least one server discards the received packet in response to detecting that the received packet is a duplicate packet that has been transmitted ([0021]).

Regarding claim 13, this claim is rejected for the same reason as set forth in claim 8.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dai A Phuong whose telephone number is 571-272-7896. The examiner can normally be reached on Monday to Friday, 9:00 A.M. to 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nguyen M Duc can be reached on 571-272-7503. The fax phone number for the organization where this application or proceeding is assigned is 571-273-7503.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dai Phuong
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